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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,143	07/27/2001	Francis M. Sherwin	PRA 2 0006	1378

7590 11/28/2007
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EXAMINER

BEKERMANN, MICHAEL

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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11/28/2007

PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

NOV 28 2007

GROUP 3600

Application Number: 09/917,143
Filing Date: July 27, 2001
Appellant(s): SHERWIN ET AL.

John P. Cornely
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/11/2007 appealing from the Office action mailed 10/04/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2001/0053997	BAIN	10-2001
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2001/0025263	DORFF	9-2001
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Slatalla, Michelle, "User's guide; Building Web Pages Is Child's Play", The New York Times, May 7, 1998, Pg G11

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim 17 is rejected under 35 U.S.C. 102(e) as anticipated by Bain (U.S. Patent Pub. No. 2001/0053997).

Regarding claim 17, Bain teaches Applicants' claimed invention, including (a) receiving a shopper/shoppers at a first web-site maintained on the communications network, the shopper having an affinity group associated therewith (FIG. 1, "Preference Processing Site (PPS) 10"); (b) forwarding the shopper/shoppers to a (selected one of a plurality of) second web-site/sites maintained on the communications network (Para. 0027, "hyperlinking from the PPS to the Vendor"); (c) obtaining a generated click-through fee related to the forwarding of the shopper/shoppers to the second web-

site/sites (Paras. 0024, 0028); (d) distributing a portion of the obtained click-through fee to the respective affinity group associated with the shopper/shoppers (Para. 0030, NPO receives commission from PPS); and, (e) communicating to the shopper/each shopper how much was distributed to their associated affinity group (Paras. 0036-0037, since the specials and incentives such as double points/commissions (Applicants' "how much") are provided to influence the behavior of purchasers, such influence requires that these specials are communicated to purchasers; and Para. 0006, tax deductible gifts necessitate that the actual portion of the purchase donated to an NPO is measurable so a purchaser can file for the appropriate amount of tax deduction). Further, Bain teaches means for a representative of an affinity group to create a customized shopping portal for the affinity group (Para. 0030, NPO registers its site and provides additional information to present to a purchaser).

Claim 12 is rejected under 35 U.S.C. 103(a) as unpatentable over Bain (U.S. Patent Pub. No. 2001/0053997).

Regarding claim 12, Bain explicitly teaches that the purchaser's selection results in a tax deductible gift (Bain at Para. 0006). On the other hand, Bain does not explicitly disclose that the shopper's identity is communicated to the affinity group/NPO. However, Official Notice is taken that NPOs often send to donors thank you letters or receipts for donors' tax records recording at least the amount of donations. Such correspondence requires that the NPO have received the identity of the donor/purchaser. Accordingly, it would have been obvious to one skilled in the art at the

time of Applicants' invention to modify Bain to include communicating the identity of the shopper/donor for the purpose of sending the shoppers' confirmation of the amount of the donation for the shoppers'/donors' tax records.

Claims 13-16 are rejected under 35 U.S.C. 103(a) as unpatentable over Bain in view of Dorff et al. (U.S. Patent Pub. No. 2001/0025263, herein "Dorff").

Regarding claims 13-16, Bain does not explicitly teach that if the identifying means does not identify a received shopper that is responsible for a distribution being made by the distributing means, then the communicating means indicates that the distribution is made anonymously. However, Dorff expressly provides these limitations (Dorff at Para. 0026). Accordingly, it would have been obvious to one skilled in the art at the time of Applicants' invention to modify Bain to the feature of anonymous giving as taught by Dorff for advantageously enabling a purchaser to experience the satisfaction of charitable giving (Dorff at Para. 0006).

Bain explicitly teaches the features recited in Applicants' Claims 14-16, including that the forwarding means permits shoppers to choose which shopping site they are forwarded to from a plurality of different shopping sites (Para. 0034), that the portion distributed by the distributing means is based upon an amount of purchases observed by the monitoring means (Para. 0028), and that the communications network is the Internet (FIG. 1 at 20).

Claims 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bain in view of Slatalla. (Slatalla, Michelle, "User's guide; Building Web Pages Is Child's Play", The New York Times, May 7, 1998, Pg G11.).

Regarding claims 18-23, Bain teaches an online community in which NPOs may link a webpage or submit information for display on the PPS (Para. 0030). Bain does not specify a web-based interface for building web pages according to the above claims. Slatalla teaches an online community called Geocities, in which web-based HTML editors were used to choose text color and graphical elements. It would have been obvious to one having ordinary skill in the art at the time the invention was made for Bain to allow altering of the appearance of the NPO information at the time of submittal. This would give each NPO page a unique feel.

(10) Response to Argument

Appellant arguments are all directed towards the customizing limitation in claim 17 and the cited portion of the Bain reference at Paragraph 0030.

Appellant argues that "the cited passage is taken out of context from the rest of the reference and the elements disclosed by Bain are capriciously rearranged in an attempt to read on the claimed invention". Examiner notes that the entire Bain reference is only 5 pages long, and in that 5 pages, the Bain reference does not appear to disclose multiple embodiments. There is nothing wrong with using a portion from page 5 of the reference, and then taking a portion from page 3, and putting them

together to obtain Appellant's invention when these portions both represent the same embodiment of Bain's invention. This is not piecemeal and the passages are clearly not unrelated.

Appellant further argues that "nowhere in paragraph [0030] is there any suggestion that the PPS 10 includes any application or other means which the NPO can use to create and/or customize their own website 40". Appellant's claim language for the customizing portion reads "customizing means for a representative of an affinity group to create a customized web site for the affinity group". The particular sentence from Paragraph 0030 that Examiner would like to draw reference to recites "The NPOs register either their site so that purchasers can review information about the NPO, or provide a brief summary of the information on the PPS for review". When this brief summary information is provided, the language "for review" signifies that it is displayed on the Preference Processing Site. If the NPO provides a brief summary that states "Hi, We are a Non Profit Organization that wants to help people", that is the message that will be displayed. The NPO could further customize this message by providing the additional information "Please give us your money", and that message will be displayed. The page in which this brief summary information is displayed is a customized web site for the affinity group. The argument that the NPO already has an additional web site is moot, as Appellant's claim does not limit the affinity group to one web site. Thus, Bain indeed teaches customizing means at Paragraph 0030.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Michael Bekerman 

Conferees:

Jeffery Carlson 

Eric Stamber 